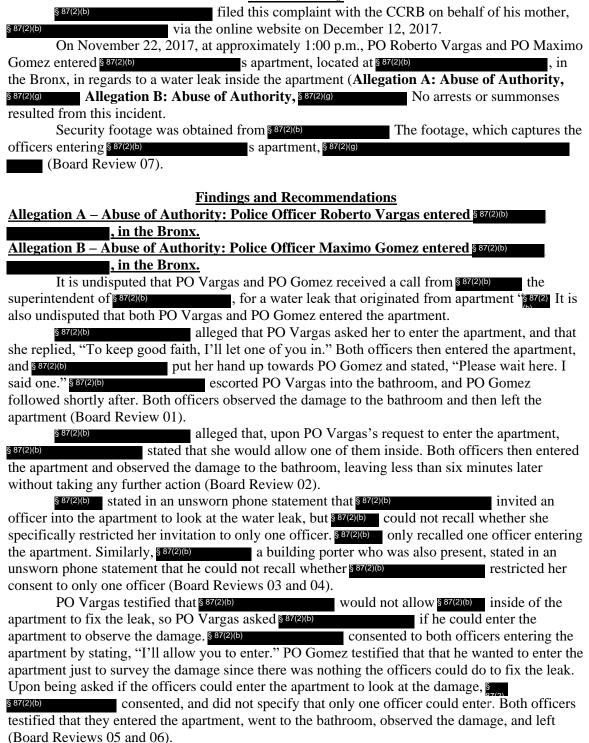
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	; 🗆	Discourt.	U.S.	
Frank Montgoris		Squad #16	201710270	☑ Abuse	e 🔲	O.L.	☐ Injury	
Incident Date(s)		Location of Incident:	1	Precino	et: 18 N	Mo. SOL	EO SOL	
Wednesday, 11/22/2017 1:00	PM	§ 87(2)(b)		44	5/2	22/2019	5/22/2019	
Date/Time CV Reported		CV Reported At: How CV Reported		l: Date/	Date/Time Received at CCRB			
Tue, 12/12/2017 5:17 PM		CCRB	On-line website	Tue, 1	Tue, 12/12/2017 5:17 PM			
Complainant/Victim	Туре	Home Addı	ress					
Witness(es)		Home Address						
Subject Officer(s)	Shield	TaxID	Command					
1. POM Roberto Vargas	04043	954392	044 PCT					
2. POM Maximo Gomez	06426	958643	044 PCT					
Officer(s)	Allegatio	Allegation]	Investigator Recommendation			
A.POM Roberto Vargas	Abuse: P § 87(2)(b)	Abuse: Police Officer Roberto Vargas entered in the Bronx.						
B.POM Maximo Gomez	Abuse: P	Abuse: Police Officer Maximo Gomez entered						

Case Summary



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Security footage, which is silent, shows the officers speaking with §87(2)(b)
and \$87(2)(b) while \$87(2)(b) and two unidentified individuals observe
the interaction. One of the individuals, a female individual, is seen standing near an apartment
door, while the other, a male individual, is seen with a briefcase. Both officers are seen entering
the apartment (Board Review 07).
201710270_20180604_1139_DM.mp4
§ 87(2)(g)
One of the exceptions to the warrant requirement is voluntary consent to search. <u>People v.</u>
Gonzalez, 39 N.Y.2d 122 (1976). Consent is voluntary when it is a true act of will, an
unequivocal product of an essentially free and unconstrained choice, and that voluntariness is incompatible with official coercion, actual or implicit, overt or subtle. <u>Id.</u>
§ 87(2)(g)
3 01 (2/\g)
An individual's consent to enter a residence does not provide officers with consent to also
conduct a protested search of the residence. <u>People v. O'Neill</u> , 11 N.Y.2d 148 (1962). Consent
given to enter a residence, whether verbal or implicit, does not constitute consent to search the
residence. People v. Flores, 181 A.D.2d 570 (1992) (Board Reviews 08, 14, and 15)
§ 87(2)(g)
Mediation, Civil, and Criminal Histories
• On January 5, 2018, this case was sent to mediation. On May 31, 2018, the case was
returned to investigation as the complaint was no longer eligible for mediation.
• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
As of June 15, 2018, the New York City Office of the Comptroller has no record of a
Notice of Claim being filed in regards to this complaint (Board Review 11).
2000 10 10 11).
Civilian and Subject Officer CCRB Histories
• This is the first CCRB complaint to which either §87(2)(b) or §
\$ 87(2)(b) has been a party (Board Reviews 12 and 13).
and over a party (2 out a 10 to to 12 and 10 to
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- PO Vargas has been a member-of-service for five years and this is the first CCRB complaint to which he has been a subject.
- PO Gomez has been a member-of-service for three years and has been a subject in one CCRB complaint and three allegations, none of which were substantiated. §87(2)(9)

Squad No.: 16			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	 Date

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